



MAIL STOP APPEAL BRIEF-PATENTS

PATENT
8006-1013

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JF

IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Appeal No.
Hiroshi SATO et al.	Conf. 2326
Application No. 09/909,885	Group 3621
Filed July 23, 2001	Examiner C. Sherr

CONTENT DELIVERING METHOD, CONTENT
DELIVERING SYSTEM, AND CONTENT
DELIVERING PROGRAM

REPLY BRIEF

MAY IT PLEASE YOUR HONORS: October 16, 2006

In reply to the Examiner's Answer of August 15, 2006, applicant respectfully submits the following remarks.

The Examiner takes the position that, although the sole reference does not mention that the customer defines the rental period and the key is useable only during the rental period defined by the customer, this feature would be obvious to one of skill in the art in view of established business principle. As an example, the Examiner cites the car rental business in which the customer defines how long to rent a car. The Examiner concludes from this that one of skill in the art would find

it obvious to utilize a key for authentication of the user and for use of the digital item.

Presumably, the Examiner is referring to a practice of renting a car for a period defined by a user (as explained in the Appeal Brief, the Examiner has not offered any evidence of any established business principle). This might be of interest if that was all that was being claimed, but the claims further provide that the key for the digital content provided over the internet is useable only during the period defined by the customer. The Examiner offers no "established business principle" for making the key to internet-provided digital content useable only for the customer defined period.

In any event, the car rental business is not analogous because the car rental business deals with physical items that must be returned. In that business, the dealer renting cars can easily recover an additional charge for a car that is returned late. This is not true when, as in the claims herein, the content is digital and provided through the internet. When providing digital content over the internet, there is no mechanism for incurring an additional charge for late return of the

digital content because the digital content is not returned. The dealer who rents digital content over the internet does not get the digital content back and therefore would not use the business model of the car rental business. The dealer must find some other way to control distribution of the digital content over the internet. One way is the invention defined in the presently pending claims.

Further, in the car rental business, the dealer wants the rented car returned and therefore does not take steps to disable the car (as by rendering the car key useless after a period of time) after the lease term expires. Indeed, applicant is not aware of any "established business principle" in the business of renting physical items in which a rented item is rendered useless after a period of time defined by the renter. Such a practice would significantly increase the dealer's risk of losing control of the item.

There are additional differences between the rental of physical items and rental of digital content over the internet that further separate these businesses, making practices in one inapplicable in the other. The dealer

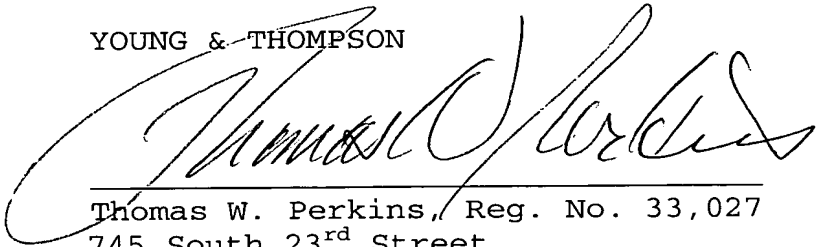
renting digital content over the internet does not have a stock problem as the digital content can be duplicated; not so in the car rental business where the dealer renting cars has only a limited number of cars. The dealer renting digital content over the internet does not care whether the customer damages the digital content; not so in the car rental business.

Thus, the Examiner relies on an unproven "established business principle" from a business that has no relevance to the rental of digital content over the internet. In view of this, one of skill in the art would not be motivated to modify DOWNS et al. in the manner suggested by the Examiner.

The rejection of record cannot be maintained and must be reversed, and such is respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, appearing to read "Thomas W. Perkins", is written over a horizontal line.

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